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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/902, 449 07/29/97 CHEATHAM

J TMI-1

PM11/0323

EXAMINER

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ART UNIT	PAPER NUMBER
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3611

14

DATE MAILED: 03/23/99

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>08/902,449</b>	Applicant(s) <b>Cheatham et al.</b>
	Examiner <b>Frank Vanaman</b>	Group Art Unit <b>3611</b>

Responsive to communication(s) filed on Feb 26, 1999.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1, 2, 5-9, and 13-17 is/are pending in the application.

Of the above, claim(s) 6 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1, 2, 5, 7-9, and 13-17 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 11

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **Status of Application**

1. The request filed on Feb. 26, 1999 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/902,449 is acceptable and a CPA has been established. An action on the CPA follows. Applicant's amendment after final rejection, not originally entered, has now been entered in the CPA; claims 1, 2, 5-9 and 13-17 are pending.

Claim 6 remains withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected species, the requirement having been traversed in Paper No. 3.

Note that upon allowance of the generic claim 1, applicant would be entitled to consideration of claim 6, presently withdrawn from consideration.

## **Claim Objections**

2. Claims 1 and 15 are objected to because of the following informalities: in claim 1, at the end of line 6, it appears as though a comma should be inserted; further between the end of line 6 and the beginning of line 7, it appears as though at least one word is missing; in claim 15, line 20, it appears as though "axle" should be --axles-- for consistency. Appropriate correction is required.

## **Claim Rejections - 35 USC § 112**

3. Claims 1, 2 and 5-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 4, the term "in positioned" is not entirely clear. In claim 6 (otherwise withdrawn from consideration), the term "said top edge" lacks antecedent basis.

## **Claim Rejections - 35 USC § 102**

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 5, 7, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Monroy et al. The reference of Monroy et al. teaches a one piece metal frame, formed through extrusion, understood to be equivalent to coining as supported and disclosed by applicant, and having a channel (40) with a top (proximate 64) an open bottom, and parallel sides (36, 38); further upward extensions of the sides form flanges (70, 72) adapted for the attachment of footwear (46), the frame strengthened by at least one support brace (66); the frame further having

a plurality of holes (100) for accommodating wheel axles (126) and wheels (32), the holes surrounded by spacers (82, 84) formed by the extrusion or coining process which forms the frame, the spacers having flat face surfaces (facing wheels 32) and having at least an inner annular portion surrounding the apertures 100.

#### **Claim Rejections - 35 USC § 103**

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 8 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monroy et al. in view of Meyers et al. The reference of Monroy et al. is discussed above, and fails to teach an embossment on one or both sides. Meyers et al. teaches a skate having sides (25, 26, which sides have an outwardly projecting plurality of embossments (30, 32). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the embossments taught by Meyers et al. to the sides of the skate frame taught by Monroy et al. for the purpose of increasing the torsional strength of the frame, thus enhancing the structural integrity of the frame, particularly under strenuous skating activities.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monroy et al. in view of Meibock et al. The reference of Monroy et al. is discussed above and fails to teach a gusset between a footwear-supporting flange and a side of the frame. Meibock et al. teaches a skate frame chassis, wherein it is noted that a gusset may be provided (element 15, note col. 6, lines 44-47) for strengthening a part of the frame portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one gusset between the flange portion and side portion taught by Monroy et al. at the in accordance with the suggestion of Meibock et al., for the purpose of insuring further structural rigidity, and for insuring that the connection between the skater's footwear and the remainder of the skate frame is not compromised.

#### **Response to Arguments**

9. Applicant's remarks have been carefully considered, but are not persuasive in that there is no support in the original specification for the benefits associated with the work-hardening which may accompany a coining process, which benefits are now being relied upon in the remarks, but not claimed. The original specification refers to an *extruding* process and simply discloses on

page 4, line 15: "(This process is sometimes referred to as coining.)", implying equivalence between the two terms and without raising any distinction between an extruding process and a coining process. The reference of Monroy refers to an extruded frame element including the thickened areas (*later* selectively machined) created by the extruding process. Further, the machining process referred to by Monroy is used to remove the extruded material where the spacers are *not* required, the original material, still present, which forms the bosses having been initially formed by the extruding process.

### Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keiper (US 687,838; note page 2, lines 28-31), and Herold (US 1,410,676; 1,410,677 and 2,125,292 - note gusset portions 14 in the '292 reference) teach formed wheel supports of pertinence.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Vanaman, who replaces the previous examiner and whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents  
Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "PROPOSED" or "DRAFT")

FRANK B. VANAMAN  
Patent Examiner  
Art Unit 3611

Frank Vanaman  
March 18, 1999

FBV 3/18/99

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SUPERVISORY PATENT EXAMINER  
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